

WIPO



PCT/TAS/I/2

ORIGINAL: English

DATE: December 15, 1970

WORLD INTELLECTUAL PROPERTY ORGANIZATION
UNITED INTERNATIONAL BUREAUX FOR THE PROTECTION OF INTELLECTUAL PROPERTY

PATENT COOPERATION TREATY

INTERIM COMMITTEE FOR TECHNICAL ASSISTANCE

First Session
Geneva, February 9 to 11, 1971

PREPARATION DOCUMENT

Submitted by the International Bureau

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I. ACTION BY THE WASHINGTON CONFERENCE

1. The Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970, “considering the desirability of preparing the application of the Patent Cooperation Treaty pending the entry into force of the Treaty,” invited the Assembly and the Executive Committee of the International (Paris) Union for the Protection of Industrial Property and the Director General of WIPO “to adopt, direct and supervise the measures necessary for the preparation of the entry into force of the Treaty.” (The quotations are from the “Resolution concerning Preparatory Measures for the Entry Into Force of the Patent Cooperation Treaty,” June 17, 1970, hereinafter referred to as “the Resolution.”)
2. The same Conference recommended in the same Resolution that such measures include the setting up of three Interim Committees, namely:
 - (i) one for technical assistance,
 - (ii) one for technical cooperation,
 - (iii) one for administrative questions.
3. The Resolution also expressed the desire that the organizations of inventors, industries, and the patent profession be associated, as in the preparation of the PCT, in the preparatory work for the entry into force of the PCT.
4. The present document concerns the first committee, that is, the “Interim Committee for Technical Assistance” (hereinafter referred to as “the Interim Committee”). The Resolution provides that this Committee should “prepare the establishment of the Committee for Technical Assistance referred to in Article 51 of the Treaty.”

II. ACTION BY THE PARIS UNION

5. The Assembly, the Conference of Representatives and the Executive Committee of the Paris Union, in their sessions held at Geneva in September 1970:
 - (i) endorsed the Resolution of the Washington Conference,
 - (ii) adopted the proposals of the Director General of WIPO concerning the implementation of the Resolution, and
 - (iii) decided which States were members of the Interim Committee (see document AB/I/33, paragraph 99, and document AB/I/18)
6. The proposals concerning implementation comprise the following:
 - (i) the Executive Committee of the Paris Union may appoint additional members to the Interim Committee,
 - (ii) the Executive Committee of the Paris Union is “to direct and supervise the work” of the Interim Committee,
 - (iii) the Interim Committee has to meet at least once before the September 1971 ordinary session of the Executive Committee of the Paris Union,
 - (iv) the Interim Committee should suggest to the September 1971 ordinary session of the Executive Committee of the Paris Union rules of procedure and a draft program of its activities for the year 1972 and possibly beyond. Both the rules of procedure and the program will be adopted by the said session of the Paris Union Executive Committee.

7. As to membership, the September 1970 sessions of the Assembly, Conference of Representatives and Executive Committee of the Paris Union decided that all States which had signed or would sign the PCT would be members of the Interim Committee. At the time

of writing the present document, the following 21 States have signed the PCT: Algeria, Brazil, Canada, Denmark, Finland, Germany (Federal Republic), Holy See, Hungary, Iran, Ireland, Israel, Italy, Japan, Norway, Philippines, Sweden, Switzerland, United Arab Republic, United Kingdom, United States, Yugoslavia. These States have been invited to the first session of the Interim Committee. Any additional State which will sign the PCT will also be invited (the PCT is open for signature until December 31, 1970).

8. The following 9 intergovernmental organizations have been invited to the first session of the Interim Committee: United Nations (UN), International Bank for Reconstruction and Development (IBRD), United Nations Development Program (UNDP), United Nations Conference on Trade and Development (UNCTAD), United Nations Industrial Development Organization (UNIDO), Inter-Governmental Conference for the setting up of a European System for the Grant of Patents (EPC), Industrial Development Centre for Arab States (IDCAS), International Patent Institute (IIB), African and Malagasy Industrial Property Office (OAMPI).

9. The following 12 international nongovernmental organizations have been invited to the first session of the Interim Committee: Asian Patent Attorneys Association (APAA), Committee of National Institutes of Patent Agents (CNIPA), Council of European Industrial Federations (CEIF), European Industrial Research Management Association (EIRMA), Inter-American Association of Industrial Property (ASIPI), International Association for the Protection of Industrial Property (IAPIP), International Chamber of Commerce (ICC), International Federation of Inventors Associations (IFIA), International Federation of Patent Agents (FICPI), Pacific Industrial Property Association (PIPA), Union of European Patent Agents, Union of Industries of the European Community (UNICE).

III. RULES OF PROCEDURE

10. In suggesting draft rules of procedure, the Interim Committee may wish to rely on the "General Rules of Procedure" of WIPO, which apply, inter alia, to the ad hoc committees of experts convened by the Director General of WIPO. In the terminology of the General Rules of Procedure, the Interim Committee is an ad hoc committee of experts (see Rules 1(1) and 46(1)). The Interim Committee may, on any given point, suggest that its rules of procedure be different from the General Rules of Procedure. The Director General of WIPO believes that the General Rules of Procedure could be adopted for the Interim Committee without any modification but, naturally, will submit to the Executive Committee of the Paris Union any other suggestion that the Interim Committee might wish to make. A copy of the General Rules of Procedure of WIPO (excerpt from document AB/I/34) is distributed together with the present document.

11. The Interim Committee is invited to suggest its own rules of procedure and, subject to later approval by the Executive Committee of the Paris Union, provisionally to apply them.

IV. ELECTION OF OFFICERS

12. Rule 52 of the General Rules of Procedure provides that:

"(1) During its first meeting, the ad hoc committee of experts shall elect from among its members a Chairman and two Vice-Chairmen."

"(2) With the consent of the Director General, the ad-hoc committee of experts may elect the Director General himself or another staff member of the International Bureau as Chairman."

13. The Director General would not wish that, in the present case, paragraph (2) of Rule 52 be applied.

14. *The Interim Committee is invited to elect, from among its members, a Chairman and two Vice-Chairmen.*

V. TASKS OF THE INTERIM COMMITTEE

15. As already stated, the Interim Committee, according to the Resolution of the Washington Conference, "should prepare the establishment of the Committee for Technical Assistance referred to in Article 51 of the Treaty."

16. It is recalled that Article 51 of the Treaty reads as follows ("Assembly" refers to the Assembly of the International Patent Cooperation Union):

"(1) The Assembly shall establish a Committee for Technical Assistance (referred to in this Article as "the Committee").

"(2) (a) The members of the Committee shall be elected among the Contracting States, with due regard to the representation of developing countries.

(b) The Director General shall, on his own initiative or at the request of the Committee, invite representatives of intergovernmental organizations concerned with technical assistance to developing countries to participate in the work of the Committee.

"(3) (a) The task of the Committee shall be to organize and supervise technical assistance for Contracting States which are developing countries in developing their patent systems individually or on a regional basis.

(b) The technical assistance shall comprise, among other things, the training of specialists, the loaning of experts, and the supply of equipment both for demonstration and for operational purposes.

"(4) The International Bureau shall seek to enter into agreements, on the one hand, with international financing organizations and intergovernmental organizations, particularly the United Nations, the agencies of the United Nations, and the Specialized Agencies connected with the United Nations concerned with technical assistance, and, on the other hand, with the Governments of the States receiving the technical assistance, for the financing of projects pursuant to this Article.

"(5) The details concerning the implementation of the provisions of this Article shall be governed by decisions of the Assembly and, within the limits to be fixed by the Assembly, such working groups as the Assembly may set up for that purpose."

17. It is noted that the Resolution defines the mandate of the Interim Committee only in very general terms. Consequently, it would seem to be desirable to define the tasks of the Interim Committee in more detail. Such definition will be needed also in connection with the draft program of the Interim Committee's activities referred to in paragraph 6 (iv), above.

18. *The Interim Committee is invited to interpret and define in more detail its mandate.*

19. It is the wish of the Director General that the Interim Committee respond to this invitation in complete independence. At the same time, he believes that it might facilitate the task of the Interim Committee if he set forth a few points which the Interim Committee might wish to deal with.

Pilot Technical Assistance Program

20. It is to be noted that the General Assembly and the Conference of WIPO adopted the following Resolution on September 28, 1970:

“The General Assembly and the Conference of the World Intellectual Property Organization (WIPO),

Noting that the Assembly, the Conference of Representatives and the Executive Committee of the International (Paris) Union for the Protection of Industrial Property have established an Interim Committee for Technical Assistance in accordance with the resolution of the Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970,

Emphasizing the need to continue and strengthen the work undertaken by the United International Bureaux for the Protection of Intellectual Property (BIRPI) under its Technical Assistance Program,

Instruct the Director General of the World Intellectual Property Organization to inform the Administrator of the United Nations Development Program of the willingness of the World Intellectual Property Organization to act as an executing agency or as a subcontractor in technical assistance projects within the field of the promotion of the protection of intellectual property, with particular reference to facilitating the transfer of technology to developing countries;

Authorize the Director General of the World Intellectual Property Organization, with the advice of the Interim Committee for Technical Assistance, to negotiate with the Administrator of the United Nations Development Program and with other appropriate intergovernmental organizations such general agreements as may be desirable to facilitate the financing and execution of technical assistance projects requested by Governments within the context of the Patent Cooperation Treaty and of the Convention Establishing the World Intellectual Property Organization;

Recommend that the Interim Committee for Technical Assistance give early consideration to pilot technical assistance projects requested by individual Governments or by groups of Governments within the context of the Patent Cooperation Treaty with a view to their commencement before the formal entry into force of the Treaty.”

21. In anticipation of possible requests for technical assistance, the International Bureau contacted, in October and November 1970, the United Nations Development Programme (UNDP), whose secretariat is in New York. Aid by the UNDP for the purposes in question appears to be a distinct possibility. The request for aid is to be presented by the interested State or States. The International Bureau is at the disposal of such States to assist them in drawing up plans for presentation to the UNDP, provided that WIPO has some part in carrying out the technical assistance program. Time permitting, the Director General will seek the advice of the Interim Committee in connection with any request for technical assistance in the present context.

22. Preliminary discussions for possible technical assistance for the above purposes have started with the competent authorities of Brazil and with the Industrial Development Centre for Arab States (IDCAS). Should they advance, before the February 1971 session of the Interim Committee, to a point where the furnishing of technical assistance becomes a concrete possibility, the International Bureau will inform the Interim Committee accordingly and as soon as possible.

23. The same applies to any other request for technical assistance which might reach the International Bureau before the said session.

Fields of Possible Technical Assistance

24. Possible technical assistance for developing countries may comprise, in particular, the following activities:

- (i) Survey of the patent system of any developing country requesting such a survey with a view to giving advice on the necessary *legislative and administrative measures* to be adopted to make its patent system more effective and more responsive to the needs of its developing economy.
- (ii) Assistance in *adapting* the developing country's patent legislation to the PCT, including the drafting of the implementing legislation necessary for accession to the PCT.
- (iii) Assistance in establishing new *centers (collections) of patent documentation*, in completing the collection of documents of existing centers, and in administering such centers, all of which would also be as a first step towards the development of the patent information services provided for in Article 50 of the PCT.
- (iv) Study of the feasibility of a project to create a *periodical* technical publication issued by WIPO which would contain classified abstracts of *certain inventions or of know how offered for licensing* and identifying parties interested offering or requesting licenses.

25. The survey under paragraph 24(i) could serve a useful purpose in assisting developing countries to modernize their patent systems and thus render them more responsive to the needs of a developing economy, in particular through legislative measures stimulating the transfer of technology.

26. The assistance proposed in paragraph 24(ii) might be useful to developing countries in view of the various legislative options provided for by the PCT and in view of their presumable desire to adapt their national legislation to the PCT system in such a way that they may derive the greatest possible benefit from acceding to the PCT.

27. Patent documents constitute a particularly valuable source of technical information for inventors, scientists and industrialists. If properly arranged and used, a collection of such documents is a useful means for the transfer of technology to developing countries. In view of the tremendous volume of such documentation already accumulated and to be published in the future all over the world, it might be desirable for a developing country to obtain the assistance proposed under paragraph 24(iii). In the framework of such assistance, the country would be advised on the most economical way of acquiring and administering the most important patent documents with a view to allowing effective use of such documents by domestic inventors, scientists and industrialists. The assistance should also include advice on the appropriate classification of patent documents to make them more easily accessible to interested circles.

28. The study proposed under paragraph 24(iv) seems to be useful in view of the results of an inquiry undertaken by the International Bureau in 1969 on the transfer of technology and licensing opportunities (last updated version contained in document PJ/79 Rev. 1 of July 3, 1970). From the results of that survey it transpires that so far there is no world-wide institution assembling the information on licenses offered for patents and know-how, although a certain number of national government or government-supported agencies and private firms deal with the matter and seem to cover not only the domestic but also to some extent the international market.

29. It seems to be advisable to study the feasibility of creating a periodical publication assembling the information on licenses for patents and know-how on a world-wide basis. Such a publication could be prepared under the auspices of WIPO as part of the information service provided for in Article 50 of the PCT. The periodical could contain an abstract describing the essence of the invention or the know-how for which a license is offered, together with a principal drawing or a general view of the subject matter wherever possible. It should further show the name and address of the party offering the invention or know-how for licensing and the classification index of the subject matter at least down to subclass level of the International Patent Classification. Finally, it appears advisable to include a column listing requests for licenses, specifying as precisely as possible the technical subject matter and indicating the name and address of the party requesting the license.

30. The creation of such a periodical publication would no doubt facilitate the access of interested circles, in particular in developing countries, to the sources of modern technology.

VI. PROGRAM FOR 1972 AND BEYOND

31. As stated above (paragraph 6(iv)), the Executive Committee of the Paris Union expects the Interim Committee to adopt a draft program of its activities for the year 1972 and possibly beyond.

32. *The Interim Committee is invited to draw up such a draft program.*

33. Again, it is the wish of the Director General that the Interim Committee responds to this invitation in complete independence.

34. Among the questions to be considered in this connection are the following:

- (i) what tasks the Interim Committee proposes to carry out and what tasks it is prepared to advise the International Bureau on if the International Bureau should undertake them,
- (ii) what the priorities are among those tasks,
- (iii) how many times, for how many days each time, and when, the Interim Committee wishes to meet in 1971 and 1972.

35. The suggested program will be reported to the September 1971 session of the Executive Committee of the Paris Union.

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